



GOVERNMENT OF INDIA

Chandigarh Administration Gazette

Published by Authority

No. 073] CHANDIGARH, WEDNESDAY, MAY 21, 2025 (VAISAKHA 31, 1947 SAKA)

CHANDIGARH ADMINISTRATION
TRANSPORT DEPARTMENT

Notification

The 20th May, 2025

No. H-III(7)-2025/7697.—In partial modification of Chandigarh Administration's Notification No. H-III(7)-2023/9590-94, dated 07.07.2023 and in exercise of the powers conferred by Section 3 of the Punjab Motor Vehicles Taxation Act, 1924, as in force in the Union Territory of Chandigarh read with the notification No. G.S.R. 366(E), dated 15.6.2006 of the Government of India, Ministry of Home Affairs and all other powers enabling him in this behalf, the Administrator, Union Territory, Chandigarh, is pleased to substitute "Rule 53-B" instead of "Rule 54" in the existing notification issued bearing No. H-III(7)-2023/9590 dated 07.07.2023 as under :

For	Read
Where the tax due in respect of any motor vehicle has not been paid by the owner or the person having the possession or control thereof, within the specified time (specified in rule 54 of the Central Motor Vehicle Rules, 1989 and as amended from time to time), then in addition to payment of the Tax due, he shall also be liable to pay penalty @0.5% of the Tax due for each day of delay. The actual amount of penalty shall not exceed the amount of tax due.	Where the tax due in respect of any motor vehicle has not been paid by the owner or the person having the possession or control thereof, within the specified time (specified in rule 53B of the Central Motor Vehicle Rules, 1989 and as amended from time to time), then in addition to payment of the Tax due, he/she shall also be liable to pay penalty @0.5% of the Tax due for each day of delay. The actual amount of penalty shall not exceed the amount of tax due.

Signature Not Verified

Chandigarh,
20th May, 2025.

DIPRAVA LAKRA, IAS,
Secretary Transport,
Chandigarh Administration.

(795)

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CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 19th May, 2025

No. 451272-HII(2)-2025/7578.—In exercise of the Powers conferred by sub section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **69/2024** dated **04.04.2025** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

CHANDIGARH TRANSPORT UNDERTAKING EMPLOYEES UNION, CHANDIGARH
IN RESPECT OF SH. VINOD KUMAR – DRIVER NO. 472. (Union)

AND

DIVISIONAL MANAGER, C.T.U., U.T., CHANDIGARH. (Management)

AWARD

1. Vide Endorsement No.451272-HII(2)-2024/16673 Dated 04.11.2024 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court / Tribunal on the demand notice dated 12.08.2023 in respect of Shri Vinod Kumar – Driver No. 472 (*here-in-after in referred "workman"*) raised by the Chandigarh Transport Undertaking Employees Union (*here-in-after referred "Union"*) upon The Divisional Manager, C.T.U., U.T. Chandigarh (*here-in-after in referred "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*here-in-after in short referred "ID Act"*) in following words :-

"Whether the demand raised in the demand notice dated 12.08.2023 by the Chandigarh Transport Undertaking Employees Union Chandigarh in respect of Sh. Vinod Kumar, Driver No.472 AND the Divisional Manager, C.T.U. U.T., Chandigarh are genuine and justified. If so, to what effect and to what relief the Union/Workers are entitled to, if any ?"

2. Upon notice, the Union appeared through its Representative. On 02.04.2025 Learned Representative for the Union suffered a statement that demand notice dated 12.08.2023 may be treated as statement of claim.

3. Briefly stated the averments of demand notice-cum- statement of claim under Section 2(k) of the ID Act are that on 12.08.2023 a meeting of Chandigarh Government Transport Worker's Union, CTU, Chandigarh was held and it was unanimously resolved that injustice has been done with the workman by passing an order dated 10.12.2020 / 24.12.2020 whereby one increment of the workman have been stopped with cumulative effect and further pay of suspension period have been limited to subsistence allowance already paid. Against this order of punishment, workman filed an appeal and same was also dismissed on 20.07.2023 on passing non-speaking order. Therefore, Union has now decided to fight for justice on his behalf by raising demand notice and file the case on his behalf before the Assistant Labour Commissioner and Labour Court / Labour Tribunal, U.T. Chandigarh. Further, Union has authorised President and Secretary of the Union to pursue the case on behalf of the Union / Workman and to sign necessary pleadings in respect of the same and to engage the services of authorised Representative to represent the Union before the Assistant Labour Commissioner and Labour Court / Labour Tribunal, U.T. Chandigarh.

4. It is further submitted that workman was charge-sheeted vide charge-sheet dated 08.06.2009 on the allegations that accident took place due to his negligence on 12.06.2006 which caused loss of ₹ 19,025/- on account of loss of mileage to the Chandigarh Transport Undertaking (CTU) because bus remained in

custody of police w.e.f. 20.04.2006 to 21.04.2006. Workman replied to the charge-sheet and submitted that the alleged accident did not take place due to his negligence, rather the same was caused due to negligence of rider of motor-cycle, who hit his motor-cycle against the road divider, due to un-balance of his motor-cycle. Further, no loss of mileage was caused to the CTU because alternative bus No.8199 was sent on the same route. The punishing authority without appreciating the reply of the workman, ordered for regular departmental inquiry and Inquiry Officer was appointed. The Inquiry Officer did not conduct the inquiry in fair and proper manner. Since the department failed to produce the witnesses before the Inquiry Officer, therefore, instead of closing the inquiry proceedings, the Inquiry Officer asked the workman to disprove the charges by leading defence evidence which act of Inquiry Officer is against the Rules. In the departmental inquiry onus is always upon the department to prove the allegation against the delinquent and not for the delinquent to prove his innocence. In defence workman submitted that the alleged incident did not take place due to his negligence but due to the negligence of motor-cycle rider himself. In criminal case arising out of same incident, workman has been honorably acquitted as per judgment dated 10.09.2021 passed by JMIC, Chandigarh. In spite of having no evidence on record, the Inquiry Officer hold the workman guilty of the charges as levelled in the charge-sheet dated 08.06.2009 by holding that since negligence of workman have been proved by MACT, therefore, charges against the workman stand proved. The Award of MACT was not part of the departmental inquiry and the workman was not given any opportunity to submit his explanation qua the same. Against the findings of the Inquiry Officer, workman submitted detailed representation but punishing authority without appreciating the same passed punishment order dated 10.12.2020/24.12.2020 received on 21.01.2021 whereby one increment of workman has been stopped without cumulative effect. Against the order dated 10.12.2020/24.12.2020, workman filed an appeal but Appellate Authority without appreciating the evidence on record as well as grounds of appeal, illegally dismissed the appeal vide order dated 20.07.2023. The order of punishment dated 10.12.2020/24.12.2020 and order of Appellate Authority dated 20.07.2023 are illegal perverse, against the rules and in violation of law of natural justice, hence same deserves to be set aside amongst others on the following grounds;

- a. Once department failed to lead any evidence by examining the witness before the inquiry officer, the inquiry officer ought to have closed the proceedings as per law. It is settled law that the department has to prove the charges and not the delinquent employee to prove his innocence.
- b. The inquiry officer as well as the punishing authority took into consideration the findings of the MACT which were neither the part of charge-sheet nor the part of inquiry proceedings. It is settled law that if any material is not part of charge-sheet, delinquent is not given chance to rebut the same, then on account of such material employee cannot be punished.
- c. The negligence of the driver cannot be proved only on the basis of findings given by MACT as held in a judgment reported in **2015 (4) SCT 278**.
- d. For the same incident, FIR No.69 dated 11.04.2016 was lodged against the workman, in which the workman has already been acquitted vide judgment dated 10.09.2011 passed by the Court of JMIC, Chandigarh. The inquiry officer did not consider the above judgment.
- e. FIR was registered against the workman on the false statement given by the police, thus, police failed to prove its case and the workman was acquitted in the FIR.
- f. The findings of the inquiry officer are illegal and without any material on record to held the workman guilty as per the judgment of Hon'ble High Court reported in **2000 (1) SCT 832** titled as **Chief Engineer T.N. Electricity Board Vs Govindara**.
- g. Following the judgement of Hon'ble High Court reported in **2001 (2) SCT 521**, Predecessor of this Labour Court had set aside similar punishment order in similar cases.

- h. This is case of no evidence except hear-say evidence.
- i. Hon'ble High Court in judgment passed in **RSA No.4399 of 2017** titled as **State of Punjab Vs Mohanjit Singh** held that findings of MACT does not *ipso-facto* prove the negligence of driver before the inquiry officer. Inquiry officer has to record its own findings on the basis of evidence produced before him for holding the delinquent guilty.
- j. Further department is estopped by its own act and conduct to initiate this proceedings against the workman.
- k. It is settled law that if on same set of allegations, employee have been acquitted in criminal case, the departmental proceedings and punishment orders based on same allegations stands nullified.
- l. It is settled law that acquittal after recording evidence of witness is always honorable acquittal.
- m. The order of appellate authority is illegal and non-speaking.
- n. The defence of workman was neither considered by the punishing authority nor by the appellate authority and no reason has been given for not accepting the defence of workman.

By the demand notice, the management has been called to withdraw the illegal order of punishment dated 10.12.2020/24.12.2020 and order of appellate authority dated 20.07.2023 and to release all monetary benefits to the workman along with interest @ 12% p.a. from the date of accrual till its realisation within a period of 15 days from receipt of this demand notice.

5. On notice, management appeared through Sh. Jasvinder Singh Gill – Law Officer. The management neither filed written statement despite availing repeated opportunities nor paid the cost as imposed vide order dated 14.01.2025. Thus, vide order dated 30.01.2025, the defence of the management was struck off.

6. For the adjudication of the case, in terms of reference order dated 04.11.2024, the following issues were framed vide order dated 30.01.2025 :-

- 1. Whether the demand raised in the demand notice dated 12.08.2023 by the Chandigarh Transport Undertaking Employees Union is genuine and justified ? if so, to what effect and to what relief the Workers Union/Workman is entitled to, if any? OPW
- 2. Relief

7. In evidence, the Union examined workman Vinod Kumar as AW1, who tendered his affidavit Exhibit 'AW1/A' along with documents i.e. original charge-sheet bearing No.5868TA IV/HO/CTU/2012 dated 03.07.2012 issued to him by Director Transport Chandigarh vide **Exhibit 'W1'**, copy of reply dated 31.08.2020 to letter No.7403/TA-I/HOD/CTU/2020 dated 11.08.2020 vide **Exhibit 'W2'**, certified copy of judgment dated 20.10.2014 passed by the Court of Ms. Navjeet Klair, JMIC, Chandigarh in Criminal Case No.342 of 09.02.2012, pertaining to FIR No.14 dated 17.01.2012 under Section 279, 337, 304-A IPC and 3/181 of MV Act, P.S. Industrial Area, Chandigarh vide **Exhibit 'W3'**, copy of letter No.7403-TA-1/HOD/CTU/2020 dated 11.08.2020 whereby the inquiry report dated 01.12.2020 made by Divisional Manager, CTU District Transport UT. Chandigarh was supplied to him and his comments were called vide **Exhibit 'W4'**, copy of inquiry report dated 01.12.2020 vide **Exhibit 'W5'**, copy of appeal dated 11.01.2021 against order of punishment dated 01.12.2020/23.12.2020 passed by Divisional Manager, CTU Chandigarh, presented by him before the Secretary Transport, Chandigarh Administration, U.T. Chandigarh vide **Exhibit 'W6'**, copy of order dated 05.07.2023 passed by Appellate Authority i.e. Secretary Transport, U.T.

Chandigarh in Appeal No.0006/2021/CTU vide **Exhibit 'W7'**, copy of award dated 14.07.2015 passed by Labour Court, U.T. Chandigarh titled as between Sucha Singh and CTU, Chandigarh bearing IDR No.138 of 2011 published in Chandigarh Administration Gazette on 07.10.2015 vide **Exhibit 'W8'**, copy of order dated 13.09.2017 passed by the Hon'ble High Court in RSA No.4399 of 2017 (O&M) titled as State of Punjab & Ors. Vs Mohanjit Singh vide **Exhibit 'W9'**, copy of order dated 16.01.2018 passed by the Director Transport, U.T. Chandigarh vide **Exhibit 'W10'** and copy of order dated 04.05.2017 passed by Divisional Manager, CTU and Director Transport, U.T. Chandigarh vide **Exhibit 'W11'**.

8. It is pertinent to mention here that on moving of application dated 04.02.2025 by the workman for issuing directions to the management to place on record inquiry file, on 18.02.2025 Sh. Joginder Singh, Data Entry Operator O/o CTU Chandigarh tendered on record copy of inquiry file of workman Vinod Kumar, Driver No.472 against punishment order dated 01.12.2020 and 23.12.2020 consisting of pages No.1 to 187.

9. On 02.04.2025, Learned Representative for the Union / workman closed evidence.

10. I have heard the arguments of Learned Representative for the Union and Learned Law Officer for the management and perused the judicial file. My issue-wise findings are as below :-

Issue No. 1 :

11. Onus to prove this issue is on the workers Union/Workman.

12. Under this issue, the Union examined workman Vinod Kumar, Ex. D.No.472 as AW1, who vide his affidavit Exhibit 'AW1/A' deposed the averments of demand notice dated 12.08.2023- cum-statement of claim in toto which are not reproduced here for the sake of brevity. AW1 supported his oral version with documents Exhibit 'W1' to Exhibit 'W11'.

13. Learned Representative for Union argued that workman was charge-sheeted on 03.07.2012 on the allegation that bus driven by him met with an accident on 17.01.2012 due to his rash and negligent driving and due to the accident, the bus was detained in police custody w.e.f. 17.01.2012 to 19.01.2012, causing loss of ₹ 19,025/- to the department. The case of the workman is that accident did not take place due to his negligence. Besides, no loss was proved because spare buses are put on the route if any bus is detained in accident case. Workman has specifically mentioned the bus number 8199 in para 2 of his affidavit / Exhibit 'AW1/A' whereby the above spare bus was plied on the same bus route during the period the accidental bus was detained. There is no rebuttal to this statement of workman. There is no evidence regarding loss of mileage/loss of ₹ 19,025/- to the department due to the said accident. It was the duty of the Inspector to get the bus released because driver is not competent to get the bus released in case the bus is detained in an accident case. It is further argued by Learned Representative for the Union that the department conducted the inquiry and during inquiry management examined many witnesses who stated that they were not present at the place of accident at the time of alleged accident and they have not seen the occurrence. Therefore, there is no evidence against the workman to the effect that accident took place due to his fault. No eye witness was examined during inquiry. In the FIR registered against the workman relating to the same occurrence of the accident, the workman has been acquitted honourably vide judgment dated 20.10.2014 passed by the Court of Ms. Navjeet Klair, JMIC, Chandigarh / Exhibit 'W3'. The action of the management is discriminatory because in similar cases, the management has exonerated drivers namely Tara Singh, Kehar Singh and Major Singh vide orders Exhibit 'W10' and Exhibit 'W11'.

14. On the other hand, Learned Law Officer argued that the workman has been awarded punishment after following the due procedure of regular department inquiry. It is not a case of any procedural defect in the department inquiry. Sufficiency and insufficiency of evidence cannot be looked into by the Labour Court.

15. To my opinion, the above argument advanced by Learned Law Officer is devoid of merits because Labour Court is empowered under Section 11A of the ID Act to interfere with the findings of the inquiry officer if they are found to be baseless or perverse and to modify the punishment if it is disproportionate to the misconduct proved.

16. In the present case from the evidence on record it comes out that the workman was charge-sheeted on the basis of report dated 17.01.2012 of Sh. Gurnam Singh, Duty Clerk which was forwarded by Sh. Tarlochan Singh, Duty Inspector on 18.01.2012 wherein it is stated that on 17.01.2012 while Sh. Vinod Kumar, Driver No.472 was on duty with bus No.CH-01-G-5052 of route No.22 met with an accident with a cyclist at railway station in which cyclist died, resulting which FIR under Section 279 and 337 IPC was lodged against Sh. Vinod Kumar, Driver No.472 and the bus remained in police custody from 17.01.2012 to 19.01.2012 which was got release on 20.01.2012 by Sh. Sukhdev Singh and Sh. Kashmir Singh, Inspector from the Court of CJM. Chandigarh. Due to this accident, the above said bus missed 665 KMs as assessed by Sh. Gurdev Singh, Duty Clerk, which caused a financial loss of ₹ 19,025/- to CTU as assessed by Sh. Gurnam Singh, Sub-Inspector. In this way, Sh. Vinod Kumar, D. No.472 is guilty for causing accident by way of rash and negligent driving, in which a person died and financial loss of ₹ 19,025/- was caused to the CTU which amounts to grave misconduct on his part.

17. Undisputedly, with regard to the alleged incident of accident dated 17.01.2012, workman faced trial in FIR No.14 dated 17.01.2012 under Section 279, 337, 304-A of IPC and Section 3/181 of M.V. Act. P.S. Industrial Area, Chandigarh, before the Trial Court of Learned JMIC, Chandigarh. Vide judgment dated 20.10.2014 / Exhibit 'W3', the Court of Learned JMIC, acquitted the accused (here-in workman) by giving the benefit of doubt. Further, it is admitted facts of the parties that with regard to the same accident MACT Court held that accident was caused due to rash and negligent driving of Sh. Vinod Kumar, D. No.472.

18. Inquiry Officer by relying upon the Award dated 25.09.2013 in MACT Petition No.29 of 23.01.2012 passed by MACT, Chandigarh, held the workman guilty for the charges levelled vide Memo dated 05.06.2020. The perusal of the findings of the Inquiry Officer would reveal that the Inquiry Officer in its findings referred the testimony of PW1 Sh. Tarlochan Singh, Duty Inspector, PW2 Sh. Gurnam Singh, Duty Clerk PW4 Shri Gurdev Singh, Duty clerk, PW5 Sh. Sukhdev Singh, Inspector, PW6 Sh. Kashmir Singh, Inspector and did not make any reference whether any witness was examined as PW3 or not. None of the above prosecution witnesses examined by the department in the inquiry proceedings are eye-witness/eye-witnesses to the occurrence of accident which took place on 17.01.2012. The inquiry officer relied upon the findings recorded by MACT, Chandigarh. As per the law laid down by Hon'ble High Court of Punjab & Haryana referred by Learned Representative for the Union in a case reported in **2011 (3) SCT 78** titled as **Manjit Singh Vs State of Haryana & Ors.** at least one eye-witness must be examined to prove negligence of driver and evidence of damage have to be proved by leading cogent evidence. In view of the ratio of the ruling of the above judgment, punishment cannot be passed only on the basis of FIR and charges have to be proved as per rules during inquiry. In the present case, in the inquiry proceedings, no eye-witness to the occurrence of accident was examined by the prosecution/department to prove the negligence of driver/workman.

19. Furthermore, the allegation against the workman that the financial loss of ₹ 19,025/- was caused to the department on account of loss of mileage i.e. 665 KMs as the accidental bus remained in police custody for the period w.e.f. 20.04.2006 to 21.04.2006, being impounded in the police proceedings of FIR No.14/2012, does not stand prove as the management failed to controvert the fact that during the period the accidental bus No.CH-01-G-5052 remained in police custody and alternative bus No.8199 was sent/plied on the same route. The Inquiry Officer while recording its findings has failed to consider the workman's defence that no loss of mileage is caused to the department.

20. In view of the reason recorded above, it is proved that the findings of the inquiry officer are baseless and perverse. Consequently, the punishment order dated 01.12.2020/endorsement dated 23.12.2020 and order of appeal dated 11.01.2020 which are based on the findings of the inquiry officer are unjust and illegal and liable to be set aside.

21. The workman has challenged the punishment orders well within limitation period of three years from the date of accrual of cause of action and the cause of action arose to the workman on 11.01.2021 when appeal was dismissed vide order dated 11.01.2021 / Exhibit 'W6'.

22. Accordingly, this issue is decided in favour of the Union / workman and decided against the management.

Relief :

23. In the view of foregoing finding on the issue above, this industrial dispute reference is allowed and answered in favour of the Union / workman to the effect that the punishment order dated 01.12.2020 bearing Endorsement date 23.12.2020 and order of appeal dated 11.01.2021 are set aside being unjust and illegal and the monetary benefits withheld by the department on the basis of above orders are ordered to be released to the workman within three months from the date of publication of this Award in Government Gazette failing which the management shall be liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this Award till its realisation. Appropriate Government be informed. Copy of this Award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

Dated : 04.04.2025 .

(JAGDEEP KAUR VIRK)
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 19th May, 2025

No. 13/2/133(435309)-HII(2)-2025/7596.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **70/2024** dated **04.04.2025** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

CHANDIGARH TRANSPORT UNDERTAKING EMPLOYEES UNION, CHANDIGARH IN RESPECT OF SH. AMRIT PAL SINGH-TG-II (FITTER). (Union)

AND

DIVISIONAL MANAGER, C.T.U., U.T., CHANDIGARH. (Management)

AWARD

1. Vide Endorsement No.13/2/133-HII(2)-2024/16682 Dated 04.11.2024 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court / Tribunal on the demand notice dated 30.11.2023 in respect of Shri Amrit Pal Singh – TG-II Fitter (*here-in-after in referred "workman"*) raised by the Chandigarh Transport Undertaking Employees Union (*here-in-after referred "Union"*) upon The Divisional Manager, C.T.U., U.T. Chandigarh (*here-in-after in referred "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*here-in-after in short referred "ID Act"*) in following words :-

"Whether the demand raised in the demand notice dated 30.11.2023 by the Chandigarh Transport Undertaking Employees Union Chandigarh in respect of Sh. Amrit Pal Singh, TG-II (Fitter) AND the Divisional Manager, C.T.U. U.T., Chandigarh are genuine and justified. If so, to what effect and to what relief the Union/Workers are entitled to, if any ?"

2. Upon notice, the Union appeared through its Representative. On 02.04.2025 Learned Representative for the Union suffered a statement that demand notice dated 30.11.2023 may be treated as statement of claim.

3. Briefly stated the averments of demand notice-cum- statement of claim under Section 2(k) of the ID Act are that on 30.11.2023 a meeting of Chandigarh Government Transport Worker's Union, CTU, Chandigarh was held and it was unanimously resolved that injustice has been done with the workman, now retired, by denying him promotion to the post of TG-I (Mechanic) during the service w.e.f. 02.11.2021, though his junior Sh. Palwinder Singh , TG-II (Fitter) was promoted. Therefore, Union has now decided to fight for justice on his behalf by raising demand notice and file the case on his behalf before the Assistant Labour Commissioner and Labour Court / Labour Tribunal, U.T. Chandigarh. Further, Union has authorised President and Secretary of the Union to pursue the case on behalf of the Union / Workman and to sign necessary pleadings in respect of the same and to engage the services of authorised Representative to represent the Union before the Assistant Labour Commissioner and Labour Court / Labour Tribunal, U.T. Chandigarh.

4. It is further submitted that the workman Amrit Pal Singh was duly selected and appointed as Store-Boy on 22.07.1988. Workman had been performing his duties with diligence and devotion throughout and he was never found in-wanting in performance of his duties. Workman was promoted as Assistant Fitter on 01.05.2012 and to the post of TG-II (Fitter) as per order dated 21.05.2020. The workman retired on superannuation on 31.01.2022. Junior to the workman Palwinder Singh joined as Store-Boy on 07.10.2003 who was promoted to the post of Assistant Fitter on 01.05.2012, TG-II (Fitter) on 21.05.2020 and further promoted to the post of TG-I (Mechanic) against the reserved post as per order dated 02.11.2021. The

claim of the workman was illegally denied to the post of TG-I (Mechanic) though he was senior to Palwinder Singh. The Chandigarh Administration adopted all the Rules governing the service conditions of its employees as were applicable to the employees working under State of Punjab by framing the Rules known as Chandigarh Employees Conditions of Service Rules, 1992 and were applicable w.e.f 1991. These rules remained in operation up to the year 2022 when Central Rules were made applicable. The promotion from the post of TG-II to the post of TG-I (Mechanic) was to be made as per seniority. Since workman was senior Palwinder Singh on 02.11.2021, therefore, workman was entitled to promotion to the post of TG-I (Mechanic) on 02.11.2021. The reservation in promotion is now regulated as per the judgment of Hon'ble Supreme Court of India delivered in a case titled as **M. Nagraj & Ors. Vs Union of India** reported in **2006 (8) SCC 212** wherein it has been held that reservation in promotion is not permissible unless and until state has not collected the data regarding inadequacy of representation to Schedule Caste and Schedule Tribes in the State Service and Cadre. While following the judgment of Hon'ble Supreme Court of India, Hon'ble High Court of Punjab & Haryana while deciding CWP No.16039 of 2014 and other connected cases held as under:-

"In view of our aforesaid discussion, once it is undisputed position on record that there is no quantifiable data available as on today, reservation in promotion could not be justified."

While following the above judgments, many departments of Chandigarh Administration including Education Department and Police Department stopped giving reservation in promotion. The above judgments are equally applicable to the Chandigarh Transport Undertaking Employees but in spite that workman's claim for promotion to the post of TG-I (Mechanic) was denied and junior was promoted on the ground that he is being promoted against the reserved post. Till date Chandigarh Administration has not collected any data regarding adequacy and inadequacy of representation of employees of SC and ST in service under Chandigarh Administration. Therefore, promotion of Sh. Palwinder Singh to the post of TG-I (Mechanic) ignoring the seniority of workman is illegal. The workman requested the management that he being senior to Sh. Palwinder Singh is entitled to promotion to the post of T.G.-I (Mechanic) w.e.f. 02.11.2021 but all in vain. Workman in this respect also made a written request as per application dated 30.12.2021 but the said application has not been considered at all. It is further submitted that by this demand notice, the management is requested to promote workman Amrit Pal Singh to the post of TG-I (Mechanic) w.e.f. 02.11.2021 with all consequential benefits including difference of pay and pensionary benefits along with interest @ 12% p.a. from the date of accrual of the same till its realisation within a period of 15 days from the receipt of this demand notice.

5. On notice, management appeared through Sh. Jasvinder Singh Gill – Law Officer. The management neither filed written statement despite availing repeated opportunities nor paid the cost as imposed vide order dated 14.01.2025. Thus, vide order dated 30.01.2025, the defence of the management was struck off.

6. For the adjudication of the case, in terms of reference order dated 04.11.2024, the following issues were framed vide order dated 30.01.2025 :-

1. Whether the demand raised in the demand notice dated 30.11.2023 by the Chandigarh Transport Undertaking Employees Union is genuine and justified? if so, to what effect and to what relief the Workers Union/Workman is entitled to, if any? OPW
2. Relief

7. In evidence, workman Amrit Pal Singh examined himself as AW1 and tendered his affidavit / Exhibit 'AW1/A' along with documents i.e. original order dated 21.05.2020 passed by Divisional Manager, CTU and Director Transport, UT, Chandigarh vide **Exhibit 'W1'**, copy of order dated 01.05.2012 passed by Divisional Manager, CTU and Director Transport, UT, Chandigarh vide **Exhibit 'W2'**, copy of order dated

02.11.2021 / 03.11.2021 passed by Divisional Manager, CTU and Director Transport, UT, Chandigarh vide **Exhibit 'W3'**, copy of notification dated 13.01.1992 published in Chandigarh Administration Gazette dated 06.02.1992 vide **Exhibit 'W4'** and copy of representation dated 30.12.2021 bearing diary No.13003 dated 30.12.2021 vide **Exhibit 'W5'**.

8. On 02.04.2025, Learned Representative for the Union / workman closed evidence.

9. I have heard arguments of Learned Representative for the Union and Learned Law Officer for the management and perused the judicial file. My issue-wise findings are as below:-

Issue No. 1 :

10. Onus to prove this issue is on the workers Union / Workman.

11. Under this issue, the Union examined workman Amrit Pal Singh, Ex. TG-II as AW1, who vide his affidavit Exhibit 'AW1/A' deposed the averments of demand notice dated 30.11.2023-cum-statement of claim in toto which are not reproduced here for the sake of brevity. AW1 supported his oral version with documents Exhibit 'W1' to Exhibit 'W5'.

12. Learned Representative for Union argued that workman joined as Store-boy on 22.07.1988 and Sh. Palwinder Singh joined as Store-boy on 07.10.2003. The workman and Sh. Palwinder Singh were promoted to the post of Assistant as per order dated 01.05.2012 / Exhibit 'W2' and workman was shown senior to Sh. Palwinder Singh. Workman belongs to general category and Sh. Palwinder Singh belongs to reserved category. Both were further promoted to the post of TG-II on the same date i.e. 21.05.2020 / Exhibit 'W1' but Sh. Palwinder Singh was shown promoted against the reserved post. Sh. Palwinder Singh though junior to the workman was further promoted to the post of TG-I as per order dated 02.11.2021 / Exhibit 'W3' against reserved post and the workman was ignored which is illegal. Learned Representative for the Union referred judgment of Hon'ble Supreme Court of India in *M. Nagraj & Ors. Vs Union of India* reported in 2006 (8) SCC 212 and the judgment dated 05.02.2020 of Hon'ble High Court of Punjab & Haryana in a case titled as *Jai Karan & Ors. Vs Union of India & Ors. in CWP No.16039 of 2014 and other connected cases*.

13. On the other hand, Learned Law Officer argued that Sh. Palwinder Singh was promoted as Assistant as per order dated 02.11.2021 / Exhibit 'W3' as per Group 'C' Non-Ministerial- Workshop posts, Recruitment Rules 2007 and against 1st backlog post reserved for SC. Thus, the promotion order dated 01.05.2012 / Exhibit 'W2' whereby Sh. Palwinder Singh, TG-II (Fitter) was promoted as Technician Gr-I (Mechanic) against 1st backlog post reserved for SC is legal and valid.

14. In the present case, the facts are not disputed that workman joined the management department as Store-boy on 22.07.1988 against the general category and Sh. Palwinder Singh joined as a Store-boy subsequently on 07.10.2003 against reserved category of S.C. Both workman Amrit Pal Singh and Sh. Palwinder Singh were given 1st promotion of Assistant Fitter vide order dated 01.05.2012 / Exhibit 'W2' and then both were given 2nd promotion of TG Gr. – II (Fitter) vide order dated 20.05.2020 / Exhibit 'W1'. In the order dated 21.05.2020 / Exhibit 'W1', in the remarks column against the name of Palwinder Singh (SC), TG-II (Assistant Fitter), it is written as '*promoted Technician Grade-II (Fitter) against backlog post of SC category against roster point No.7 (SC)*'. Said Sh. Palwinder Singh was promoted for the 3rd time vide order dated 02.11.2021 / Exhibit 'W3' as Technician Grade-I (Mechanic) against 1st backlog post reserved for SC, whereas workman Amrit Pal Singh was not given 3rd promotion along with said Palwinder Singh. The grievance of the workman is that said Palwinder Singh was further promoted to the post of TG-I Mechanic against reserved post as per order dated 02.11.2021 by ignoring the seniority of the workman, thus, the order dated 02.11.2021 / Exhibit 'W3' is illegal and liable to be set aside and the workman is entitled to promotion to the post of TG-I (Mechanic) w.e.f. 02.11.2021. The law laid down in the judgments *M. Nagraj & Ors. Vs Union of India* reported in 2006 (8) SCC 212 and the judgment dated 05.02.2020 of Hon'ble High Court of Punjab & Haryana in a case titled as *Jai Karan & Ors. Vs Union of India & Ors. in CWP No.16039 of 2014 and other connected cases*, is well recognised by this Court but the

relief cannot be granted without hearing the promoted employee namely Sh. Palwinder Singh. The decision of this case is likely to affect the rights of Sh. Palwinder Singh. Non-joinder of Sh. Palwinder Singh as party to this case is fatal. Since the workers union have raised the industrial dispute on behalf of general category employee namely Amrit Pal Singh and challenged the promotion order dated 02.11.2021 / Exhibit 'W3' without impleading the promoted reserved category employee Sh. Palwinder Singh, thus, the present Industrial Dispute Reference is bad for non-joinder of necessary party. The affected employee is required to be impleaded to ensure a fair hearing.

15. In view of the reasons recorded above, the present industrial dispute reference deserves dismissal for non-joinder of necessary parties.

16. Accordingly, this issue is decided against the Union / workman and in favour of the management.

Relief :

17. In the view of foregoing finding on the issue above, this industrial dispute reference is declined and answered against the Union / workman. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

Dated : 04.04.2025 .

(JAGDEEP KAUR VIRK)
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152

Secretary Labour,
Chandigarh administration.

CHANGE OF NAME

I, Praveen Kumar S/o Rampher R/o # 2273, Vikas Nagar, Mauli Jagran, Chandigarh, have changed my name to Parveen Kumar.

[793-1]

I, Jasdeep Singh S/o Late H.D. Chauhan # 1542-A, Sector 45-C, Burail, Chandigarh, have changed the name of my minor daughter from Rivanshi to Rivanshi Chauhan.

[794-1]

I, Suman Kalia W/o Ashok Kumar Kalia R/o # 3031, SBI Officer Society, Sector 49-D, Chandigarh, have changed my name to Suman Vasisht.

[795-1]

I, Nazbin W/o Sh. Majboor Ali R/o H. No. 1158, Burail, Sector 45-C, Chandigarh, declare that I have changed my name from Nazbin to Nazmina, Concerned please note.

[796-1]

I, Jaimal Singh S/o Chattar Singh R/o H. No. 3100, Ground Floor, Sector 35-D, Chandigarh changed my name Jaimal Singh Kattal.

[797-1]

I, Mohammad Jafar S/o Abdul Gaffar R/o # 1287, Village Burail, Sector 45-C, Chandigarh, have changed my minor daughter's name from Afiya to Aafiya.

[798-1]

I, Harish Gupta S/o Bishan Dass Gupta R/o House No. 610, IAS/PCS Society, Sector 49-A, Chandigarh, have changed my name from Harish Gupta to Harish Chand Gupta.

[799-1]

I, Shagufta Parveen W/o Imran R/o # 705, Charan Singh Colony, Mauli Jagran, Chandigarh, have changed my name to Shagufta.

[800-1]

I, Soniya W/o Rajesh Kumar R/o # 1398-B, Sector 41-B, Chandigarh, have changed my name to Sonia.

[801-1]

I, Gyani Pndit S/o Dashrath Pandit R/o House No. 6, Faidan Nizampur, Chandigarh, have changed my name from Gyani Pndit to Gayani Pandit.

[802-1]

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